

**PHARMACY EXAMINING BOARD
JUNE 22, 2005
MEETING MINUTES**

PRESENT: Michael Bettiga, R.Ph.; John Bohlman, R.Ph.; Georgina Forbes, Fred Moskol, R.Ph.; Charlotte Rasmussen; Susan Sutter, R.Ph.

EXCUSED: Cynthia Benning, R.Ph.

STAFF: Tom Ryan, Bureau Director; William Black, Legal Counsel; PJ Monson, Bureau Assistant

GUESTS: Rich Verschay, R.Ph; Tom Engels, PSW; Jack Monroe, Target; Darrin Wirkes, Target; Ralph Lang; Jamie Statz Paynter, Dean Pharmacy; Larry Edwards, Wisconsin Department of Corrections; Elizabeth Nelson, Womens International Pharmacy; Doug Englebert, BQA; Paul Baum, GHC; Wayne A. Michaels, DEA; Adam Quirk, DEA; Dean Micoselt, Target

CALL TO ORDER

Chair Michael Bettiga called the meeting to order at 9:04 a.m. A quorum was confirmed.

MOTION: Mr. Moskol moved, seconded by Mr. Bohlman, to approve Rich Verschay's attendance in closed session. Motion carried unanimously.

APPROVAL OF AGENDA

Additions:

- Item "G" – Comments on Assembly Bill 258
- Item "G" – Review and Analysis of 2005 Wis. Act 14 – Regulation of Pseudoephedrine Products
- Item "P" – Foreign Graduate Licensing Issues
- Item "P" – Foreign Pharmacy Graduate Examination Committee Evaluation Process
- Item "P" - Foreign Graduate Internship Status Report
- Item "Q" – Resolutions Passed and Defeated at NABP's 101st Annual Meeting
- Item "R" – Legislation for the emergency continuation of the practice of pharmacy
- Item "R" – Emergency Continuation of the Practice of Pharmacy - Proposed Statutory Language
- Item "R" – National Association of Boards of Pharmacy Authorization to Test Numbers
- Item "R" – "Concerned Practitioners, Pharmacists" letter to the Board
- Item "V" – Replace page 242
- Item "JJ" – Letter to the Board regarding licensure for Paul Nelson
- After Item "RR" – DOE case closings

MOTION: Ms. Forbes moved, seconded by Mr. Bohlman, to approve the agenda with additions. Motion carried unanimously.

The Bureau Director introduced Celia M. Jackson, the new Secretary of the Department. The Secretary extended an invitation should any member want to meet with her. Mr. Ryan also informed the Board of the resignation of Chris Klein as the Departments Executive Assistant.

APPROVAL OF MINUTES OF APRIL 14, 2005

Amendments to the Minutes:

- Pg. 7 of 11 – missing word “Memo”
- Change Bill Black to William Black
- Pg. 10 of 11 – Mr. Bettiga did not abstain from voting on William Karwoski

MOTION: Ms. Sutter moved, seconded by Mr. Moskol, to approve the minutes as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MICHAEL L. CHEW

Jeanette Lytle, Division of Enforcement, appeared before the Board to present the stipulation in the matter concerning Michael L. Chew.

HEIDI TIMMERMAN

Jeanette Lytle, Division of Enforcement, appeared before the Board to present the stipulation in the matter concerning Heidi Timmerman.

ADMINISTRATIVE REPORT

Budget Report

None.

Small Business Regulatory Review Board

Mr. Ryan presented information regarding the Small Business Regulatory Review Board and responded to members' questions.

Medical Examining Board appointment to the Pharmacy Advisory Council

Mr. Ryan informed the Board that the Chair of the Medical Examining Board was appointed as their representative to the Pharmacy Advisory Council and that Jacqueline Johnsrud was appointed as the Nursing Board's representative.

2006 examination and meeting dates

The Board approved the meeting dates for 2006 after changing the June meetings from June 13 and 14 to June 21 and 22. The March, May and August meetings were cancelled.

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to accept the meeting dates as amended under protest to the budget cuts. Motion carried unanimously.

The Board expressed concerns regarding the suitability of the exam location to Dr. Showers.

NABP program review and training invitation

The National Association of Boards of Pharmacy will hold its annual program review and training with two sessions on Monday 8/29/05 and Friday 9/9/05.

MOTION: Ms Sutter moved, seconded by Mr. Bohlman, to send Kris Hendickson from the Division of Professional Credential Processing with Dr. Showers appointing someone from the exam office as an alternate. Motion carried unanimously.

American Institute of the History of Pharmacy request for recommendations

The Board did not make a recommendation at this time.

DEA THEFT AND LOSS REPORTS

Monthly Form 106 Reports from DEA were reviewed and discussed.

WIS. ADMIN. CODE § 6.08 – ALARM SYSTEM VARIANCE

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to adopt the rule as written. Motion carried unanimously.

WIS. ADMIN. CODE § 7.04 – RETURN OR EXCHANGE OF HEALTH ITEMS

Public Hearing:

The hearing was held. Tom Engels testified in support of the rule on behalf of the Pharmacy Society of Wisconsin.

Review of Clearinghouse Comments:

The FDA's Compliance Policy Guide will need to be reviewed prior to moving forward. Discussion revolved around the beyond use date and re-dispensing.

WIS. ADMIN. CODE § 7.05 – DRUG TRANSFERS - STATUS

William Black reported Wis. Admin. Code § 7.05 is being finalized and will be sent to the legislative clearinghouse when completed.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES, ADMINISTRATIVE RULES AND LEGISLATION

2005 SB 78 - pseudoephedrine and other materials used to produce Methamphetamine

Act 14---William Black reviewed his memorandum on this subject.

MOTION: Mr. Bohlman moved, seconded by Mr. Moskol, to put the review and analysis of 2005 Wisconsin Act 14 on the website. Motion carried unanimously.

2005 AB 258 – drug product equivalents

Ms. Sutter’s letter to the Assembly Committee on Health was discussed.

2005 AB 269 – prescription drug labels

Sue Sutter provided a status report on this bill.

CR 04-142– Expanding cancer drug repository program

Doug Englebert, DHFS, reported the rule will be published and effective on 7-1-05.

AB 197- chronic disease drug repository program

Doug Englebert, DHFS, reported the program will be effective in January 2006.

Scope statement re: Wis. Admin. Code § 8.02 - discussion

Tom Ryan discussed the draft and the inconsistency between the DEA’s final rules and form #106. Discussion ensued regarding the definition of “significant” loss with regard to amount. Mr. Wayne Michaels, DEA, spoke to the interpretation of significant loss and suggested the Board might want to request a definition from the DEA. The Board also discussed the definition of “excessive purchase”. Ms. Sutter affirmed Mr. Bohlman’s motion from the April meeting for a scope statement on Wis. Admin. Code § 8.02.

LEGISLATIVE LIASON REPORT

Out of state licensure – update

No further action was taken on this item.

Susan L. Sutter's letter to Senator Scott Fitzgerald regarding the proposal to move Legal Services of the Department of Regulation and Licensing to the Department Of Administration.

Noted.

REMOTE DISPENSING

The Board discussed the draft prepared by legal council and Mr. Bohlman suggested making a change to the draft with regard to dispensing in rural areas where there is no physician.

The Board decided to discuss remote dispensing after the draft has been revised.

**VARIANCE REQUEST - PYXIS PROFILING
BELLIN HEALTH
MICHAEL STILLER, R.Ph. – MILWAUKEE, WI**

Michael Stiller, R.Ph and Jennifer LaPlant, appeared before the Board to discuss Bellin Health's request for a variance relating to a new location, the Bond Health Center, 820 Arbutus Ave., Oconto WI.

The Board reviewed the request and determined there is no variance required for Bellin Health.

**VARIANCE REQUEST – OUT OF STATE CENTRAL FILLING
MEDICAP PHARMACY #72
JAMES L. JERNEGEN, R.Ph – NEW LONDON, WI**

William Black explained that Minnesota is no longer requiring a MN variance for central fill pharmacies located in Minnesota that serve entities in other states.

MOTION: Ms. Rasmussen moved, seconded by Mr. Bohlman, to grant a variance to Medicap Pharmacy #72, Motion carried unanimously.

**VARIANCE REQUEST – OUT OF STATE CENTRAL FILLING
CRIVITZ PHARMACY
RICHARD A. SMITH, RPH – CRIVITZ, WI**

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to grant a variance to Crivitz Pharmacy. Motion carried unanimously.

VARIANCE REQUEST RECEIVED IN THE BUREAU AFTER MAILING OF AGENDA

None.

PRACTICE QUESTIONS

Space Use - True Botanica - Mark Kamsler, R.Ph. – Delafield, WI

MOTION: Mr. Bohlman moved, seconded by Mr. Moskol, to deny further discussion with regard to Mark Kamsler, R.Ph. Motion carried unanimously.

Call Center For Multiple Pharmacies - Marshfield Clinic - David Wunrow, R.Ph. – Marshfield WI

This was previously answered.

BOARD WRITTEN APPROVAL REQUEST

Central Processing Unit For Transfers - Wal-Mart/Sam's Club

William Black will respond via email with questions raised by the Board with regard to having a co-mingled data base for access to all Wal-Mart/Sam's Club locations.

FOREIGN GRADUATE INTERNSHIP REQUIREMENTS

Kris Hendrickson, Division of Professional Credential Processing, participated in discussion regarding Foreign Graduates. Ms. Sutter requested the Board have drafted the scope statement to require FPGEC to be completed before allowing foreign graduates to begin internship in Wisconsin. She also requested the Board close applications greater than two years old and instructed department staff to continue to follow the policy of requiring the diploma be sent directly from the school of graduation to be deemed valid.

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to draft the scope statement with regard to requiring the FPGEC to be completed prior to internship in Wisconsin. Motion carried unanimously.

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to require applicants to provide diploma translated in to English. Motion carried unanimously.

MOTION: Ms. Sutter moved, seconded by Ms. Rasmussen, to send a letter to all Foreign Graduate applicants that have applied from 2002 thru 2004 requesting they submit verification of their internship hours and copy in the pharmacy for a response as well. Should there be no response from the applicant, the application will be withdrawn. Motion carried unanimously.

William Black advised to allow a 30 day grace period between notifying the applicant of the required verification of internship hours to be sent to the Department and the withdrawal of the application should there not be any response from the applicant.

LICENSING LIAISON REPORT

None.

NABP MEETING REPORT

The report was filed. Supplemental information was provided as agenda material.

Suspended Pharmacists Working As Technicians

Board consensus suggests a need to modify current orders to not allow suspended pharmacists to act as Pharmacy Technicians.

Consultation examination work group - update

The Board chair requested that the subcommittee meet before the next Board meeting and provide the Board with a report.

INFORMATIONAL ITEMS

Noted.

CLOSED SESSION

MOTION: Mr. Moskol moved, seconded by Ms. Rasmussen, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1)(a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Charlotte Rasmussen-yes; Sue Sutter-yes; John Bohlman-yes; Fredric Moskol-yes, Georgina Forbes-yes; Michael Bettiga-yes; Motion carried unanimously.

The Board convened into Closed Session at 12:08 p.m.

RECONVENE TO OPEN SESSION TO VOTE ON ITEMS DELIBERATED ON IN CLOSED SESSION

MOTION: Ms. Rasmussen moved, seconded by Mr. Bohlman, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 5:15 p.m.

DELIBERATION OF STIPULATIONS, FINAL DECISIONS AND ORDERS

MICHAEL L. CHEW, R.Ph

MOTION: Ms. Rasmussen moved, seconded by Mr. Bohlman, to deny the proposed stipulation, findings of fact, conclusions of law and order in the matter of

the disciplinary proceedings against Michael L. Chew, R.Ph. – 04 PHM 070. Motion carried unanimously.

HEIDI TIMMERMAN, R. Ph.

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to adopt the proposed stipulation, findings of fact, conclusions of law and order in the matter of disciplinary proceedings against Heidi Timmerman, R, Ph. – 05 PHM 004, Motion carried unanimously. Mr. Bettiga abstained.

CONSIDERATION OF ADMINISTRATIVE WARNINGS

05 PHM 002

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to issue the administrative warnings in the matter of disciplinary proceedings against case # 05 PHM 002. Motion carried unanimously.

04 PHM 081

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to issue the administrative warning in the matter of disciplinary proceedings against case # 04 PHM 081. Motion carried unanimously.

03 PHM 067

MOTION: Mr. Bohlman moved, seconded by Mr. Moskol, to issue the administrative warning in the matter of disciplinary proceedings against case # 03 PHM 067. Motion carried unanimously.

DOE CASE CLOSINGS

CASE 04 PHM 081

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to close case 04 PHM 081 for no violation. Motion carried unanimously.

CASE 04 PHM 074

MOTION: Ms. Sutter moved, seconded by Ms. Rasmussen, to close case 04 PHM 074 for prosecutorial discretion (P2). Motion carried unanimously.

CASE 04 PHM 061

MOTION: Mr. Bohlman moved, seconded by Ms. Forbes, to close case 04 PHM 061 for prosecutorial discretion (P3). Motion carried unanimously.

CASE 03 PHM 032

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to close case 03 PHM 032 for no jurisdiction. Motion carried unanimously.

Review of Candidates Challenges to Scoring of Patient Consultation Examination – Darwin Tichenor, Office of Education and Examinations

166 applicants registered for the exam, 161 examined and 9 failed. A review was conducted for 6 of the 9. Two were moved to pass status. Challenges will be brought to the July Board meeting.

Approximately 30-40 people are expected for the July exam. The exam will be held Tuesday afternoon prior to the Wednesday Board meeting.

REVIEW OF APPLICATIONS

HEIDI EWERT

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to grant reinstatement of licensure upon completion of MPJE and the patient counseling examination for Heidi Ewert. Motion carried unanimously.

RICKE WALDMAN

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to grant reinstatement of licensure upon completion of 1500 internship hours and MPJE and passing the patient counseling exam for Ricke Waldman. Motion carried unanimously.

SAVITHA CHACKO

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to deny licensure to Savitha Chacko for submitting falsified documents. Motion carried unanimously.

CONSIDERATION OF ORDER FIXING COSTS

NEIL T. NOESEN, R.Ph

MOTION: Ms. Sutter moved, seconded by Ms. Forbes, to approve the Order of Fixing Costs in the matter Neil T. Noesen, R.Ph. Motion carried unanimously.

DOE MONITORING

**MICHAEL O'KRAY, R.Ph.
REQUEST FOR FULL REINSTATEMENT**

MOTION: Ms. Sutter moved, seconded by Mr. Moskol, to deny Michael O’Kray’s request for full licensure reinstatement and allow 16 hours of Pharmacy In Charge with no open or close privileges. Motion carried unanimously.

**GERALD JENNINGS, R.Ph.
REQUEST FOR THREE MONTH STAY**

Leslie Herman, Attorney for NeighborCare Pharmacy, Bob Greifenhagen, R.Ph., NeighborCare, Tom Tucker, NeighborCare Pharmacy, and Gerald Jennings, R.Ph. appeared before the board.

MOTION: Ms. Rasmussen moved, seconded by Mr. Moskol, to grant Gerald Jennings’ a three-month stay with a recommendation that he read and follow all conditions of his order and supply copies of stays to his managing pharmacists and not to work alone. Motion carried unanimously.

**JOHN SCHMITT, R.Ph.
REQUEST FOR THREE MONTH STAY**

Leslie Herman, Attorney for NeighborCare Pharmacy, Bob Greifenhagen, R.Ph., NeighborCare, Tom Tucker, NeighborCare Pharmacy, and John Schmitt, R. Ph. appeared before the board.

MOTION: Mr. Bohlman moved, seconded by Ms. Rasmussen, to grant John Schmitt’s three-month stay. Motion carried unanimously. Mr. Bettiga abstained.

**PAUL NELSON, R.Ph.
REQUEST FOR FULL LICENSURE**

MOTION: Mr. Bohlman moved, seconded by Ms. Rasmussen, to grant Paul Nelson’s request for full licensure. Motion carried unanimously.

**ROGER IVERSON R.Ph.
REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION**

MOTION: Mr. Bohlman moved, seconded by Ms. Rasmussen, to grant Roger Iverson’s request for reinstatement of stay of suspension with 5 years starting today. Motion carried unanimously.

**THOMAS TRISCARI R.Ph.
REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION**

MOTION: Mr. Bohlman moved, seconded by Mr. Moskol, to grant Thomas Triscari’s request for reinstatement of stay of suspension. Motion carried unanimously.

MICHAEL HILLER, R.Ph.
REQUEST FOR THREE MONTH STAY AND MODIFICATION

MOTION: Ms. Sutter moved, seconded by Ms. Rasmussen, to grant the stay of suspension and deny modifications for Michael Hiller. Motion carried unanimously.

THOMAS PIRE, R.Ph.
REQUEST FOR THREE MONTH STAY AND MODIFICATION

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to grant Thomas Pire's request for a three month stay and change the Urine Analyses (UA's) from 96 to 72. Motion carried unanimously.

ANDREW RICE, R. Ph.
REQUEST FOR THREE MONTH STAY AND MODIFICATION

MOTION: Ms. Rasmussen moved, seconded by Ms. Sutter, to grant Andrew Rice's request for a three month stay and modifications. Motion carried unanimously. Mr. Bettiga abstained.

CHARLENE WILLIS, R. Ph.
REQUEST FOR THREE MONTH STAY AND MODIFICATION

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to grant Charlene Willis' request for a three month stay and 32 Pharmacist In Charge (PIC) hours. Motion carried unanimously.

DUANE OESTREICH, R. Ph.
REQUEST FOR THREE MONTH STAY AND POSSIBLE NON COMPLIANCE

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to grant Duane Oestreich's request for a three month stay with no modifications. Motion carried unanimously. Mr. Bettiga abstained.

LANCE LUNDSTAD, R.Ph.
REVIEW OF TERMINATION OF STAY

MOTION: Ms. Sutter moved, seconded by Mr. Bohlman, to deny Lance Lundstad's request for a stay and to require 6 months of clean random ETG screenings beginning May 19, 2005. Motion carried unanimously.

DIVISION OF ENFORCEMENT - CASE STATUS REPORT/CASE CLOSINGS

Noted.

Consulting with legal counsel, Including:

- Neil Noesen v. State of Wisconsin Department of Regulation and Licensing Pharmacy Examining Board – Barron County Case Number 2005CV000212

VALIDATION OF EXAM SCORES

MOTION: Mr. Bohlman moved, seconded by Ms. Sutter, to validate the exam scores of June , 2005. Motion carried unanimously.

ADJOURNMENT

MOTION: Mr. Moskol moved, seconded by Ms. Forbes, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 5:25p.m.

Next Meeting: July 27, 2005